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Before the  
Federal Communications Commission  
Washington, DC 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
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Section 68.4(a) of the Commission's Rules ) WT Docket No. 01-309  
Governing Hearing Aid-Compatible Telephones )  
 )  
Dobson Communications Corporation Petition )  
for Waiver and Extension of Section 20.19(d)(2) )  
of the Commission's Rules )

To: The Commission

**DOBSON COMMUNICATIONS CORPORATION  
PETITION FOR WAIVER AND EXTENSION OF SECTION 20.19(d)(2)  
OF THE COMMISSION'S RULES**

Pursuant to Sections 1.3 and 1.925 of the Commission's rules, Dobson Communications Corporation ("Dobson")<sup>1</sup> hereby requests a limited waiver of Section 20.19(d)(2) of the Commission's rules and an extension for not more than three months of the September 18, 2006 deadline ("the T-coil deadline")<sup>2</sup> set forth therein.

<sup>1</sup> Dobson is one of the largest providers of rural and suburban wireless communications services in the United States, offering services to a population base of 12 million people in sixteen states stretching from Alaska to New York. Dobson operates through two primary subsidiaries, Dobson Cellular Systems, Inc. and American Cellular Corporation, and offers services under the CELLULARONE® brand in all its markets except for those in western Oklahoma and the Texas panhandle, where Dobson uses the DOBSON CELLULAR SYSTEMS® service mark. Dobson, through its spectrum holdings in the 850 MHz and 1.9 GHz band, offers digital service and handsets to consumers utilizing the Global System for Mobile Communications ("GSM") air interface protocol. Because Dobson's networks, and the networks of its roaming partners utilize both cellular and broadband Personal Communications Services frequency bands to provide the regional and nationwide services that subscribers require, Dobson must offer dual-band handsets that can operate in either the 850 MHz or 1.9 GHz band based on the best available signal to ensure that its subscribers have seamless coverage throughout each region. For this reason, Dobson only offers multi-band handsets to its customers. Dobson is currently in compliance with the existing M-rating and other hearing aid-compatible ("HAC") obligations.

<sup>2</sup> Carriers must offer at least two handset models that comply with [the C63.19 T-Coil standard] for each air interface by September 18, 2006 and make available in each retail store owned or operated by the provider all of these handset models for consumers to test in the store. 47 C.F.R. § 20.19(d)(2). Section 20.19(b)(2) provides that a public mobile radio service handset is considered hearing aid-compatible for inductive coupling if it meets, at a minimum, the U3T (a/k/a T3) rating as set forth in the 2001 version of the American National Standards Institute ("ANSI") C63.19 technical standard. See 47 C.F.R. § 20.19(b)(2). The Commission has subsequently decided to allow applicants for equipment certification to rely on either the 2001 or the updated 2005 or 2006 version of ANSI

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Dobson is committed to ensuring that customers with hearing disabilities have access to its digital wireless services. Dobson has acted diligently to test, order, and attempt to timely stock its retail outlets with compliant handsets. Despite these substantial efforts, Dobson will be unable to meet the upcoming deadline because of unanticipated manufacturer delays in the testing and delivery of dual-band handset models that utilize the GSM air interface protocol and that satisfy the Commission's inductive coupling requirements for HAC phones by the T-coil deadline. Dobson therefore seeks a limited waiver and extension of the T-coil deadline to allow Dobson to complete its compatibility testing and to allow the manufacturers to complete delivery through Dobson's distributor of the required two handsets already identified (and ordered) by Dobson as sufficient to satisfy its regulatory obligations.

#### **DISCUSSION**

Although Section 20.19(d)(2) imposes obligations on carriers,<sup>3</sup> the Commission has acknowledged that service providers are necessarily dependent on the availability of compliant handsets from their vendors.<sup>4</sup> As the Commission is aware, handset manufacturers have only recently been able to seek certification from the Federal Communications Commission ("FCC") for T-rated handsets. Indeed, upon initially seeking the required handsets in the marketplace, Dobson was advised by its vendors that delays in the adoption of new testing standards and limitations in the number of facilities at which devices could be FCC certified resulted in an industry-wide delay in the availability for carrier testing of HAC handsets that meet the T-coil standard. And although Dobson is one of the largest providers of rural and suburban wireless

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C63.19. See *Public Notice*, "OET Clarifies Use of Revised Wireless Phone Hearing Aid Compatibility Standard Measurement Procedures and Rating Nomenclature," DA 05-1134 (rel. Apr. 25, 2005); *Public Notice*, "WTB and OET Clarify Use of Revised Wireless Phone Hearing Aid Compatibility Standard," DA 06-1215 (rel. June 6, 2006).

<sup>3</sup> See 47 C.F.R. § 20.19(b)(2).

<sup>4</sup> See 47 C.F.R. § 20.19(e) (exempting mobile service providers from HAC requirements if the only manufacturers that they can obtain their handsets are exempt).

communications services in the United States, its purchasing power and influence pales in comparison to that of the national Tier I carriers. As a result, Dobson was required to work through indirect distribution channels to obtain the required inventory of handsets, even as it was working with manufacturer representatives to determine the acceptability of any particular handset for use on its network. Moreover, before offering a new handset model, Dobson must first obtain samples of the device for testing to ensure that the device works properly with Dobson's network.<sup>5</sup> This compatibility testing typically takes between 4-6 weeks to complete, but Dobson has prioritized the testing for the HAC models, which have only recently received FCC certification, to expedite their availability in Dobson's stores.

In anticipation of the upcoming T-coil deadline, Dobson investigated handsets from LG, Motorola, Nokia, Samsung, and Sony Ericsson. Dobson determined that while a number of models were awaiting possible certification, only three dual-band GSM models would be made available to Dobson<sup>6</sup> that would likely meet the Commission's T-coil standard: the Motorola RAZR V3i; the Nokia 6126H; and the LG C2000.<sup>7</sup> Dobson initially focused its efforts on offering the RAZR V3i and the Nokia 6126H, because it had successfully acquired and offered prior or similar versions of these two handsets.

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<sup>5</sup> For example, the radio frequency ("RF") performance of the device is tested in a laboratory and in the field through a drive test to measure the signal strength between the towers and the device. Dobson also checks all data settings on the phone to ensure that they work properly and are compatible with Dobson's network. Sample phones are also sent to Dobson's application providers to ensure that the device works with their service offerings and standards, including ringtone and wallpaper download providers, as well as America Online and Dobson's instant messenger software builder. For handsets purchased by national Tier I carriers, manufacturers may load the handset with individualized software that is proprietary to the particular carrier that helps ensure that the handset works properly on the Tier I carrier's network. For non-Tier I carriers, however, manufacturers simply load generic software that must be tested and modified by the non-Tier I carrier to ensure compatibility.

<sup>6</sup> Many handsets are not available to Dobson by reason of exclusivity arrangements with larger carriers, thereby limiting the universe of handsets that might satisfy the T-coil requirement.

<sup>7</sup> While Dobson is aware that manufacturers have other dual-band GSM handset models that meet the T3 standard, e.g., the Nokia 6133h and the LG CG3000, these models are not made available to Dobson.

Motorola received HAC certification for the V3i on August 3, 2006, and Dobson began testing sample units that month.<sup>8</sup> By the end of August, Dobson had placed a purchase order with its handset distributor for the V3i, which should have ensured that the handset would be available at every retail outlet owned and operated by Dobson by September 18, 2006. In early September, however, Motorola informed Dobson it would not be able to ship the devices in sufficient time so that Dobson could meet the T-coil deadline.<sup>9</sup> Motorola has now advised Dobson that the product will be available at Dobson's distributor by September 26, 2006; if this date is met, Dobson hopes to have the devices retested and delivered to all of its retail outlets within not more than three weeks thereafter, *i.e.*, by October 17.<sup>10</sup> Notwithstanding Motorola's inventory delays, Dobson intends to offer the V3i as expeditiously as possible once it is available.

In August, 2006, Dobson also worked with Nokia to investigate the suitability of the 6126H. On August 29, however, Nokia informed Dobson that this model will not be made available to Dobson until November, 2006. While Dobson plans to offer this model, this date clearly falls well past the T-coil deadline.

After learning that Nokia could not deliver the 6126H in time to meet the T-coil deadline, Dobson continued to investigate the availability and acceptability of the LG C2000.<sup>11</sup> Unfortunately, LG was not able to deliver the necessary samples for Dobson's internal testing until September 8, 2006. At Dobson's request, Dobson's distributor has reserved a sufficient

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<sup>8</sup> See Equipment Authorization for FCC ID: IHDT56GW1 (granted Aug. 3, 2006) (RAZR V3i).

<sup>9</sup> According to Motorola, a quality control issue had impacted already manufactured handsets and it had decided to recall all potentially affected units previously destined for Dobson's order for further analysis.

<sup>10</sup> Dobson notes that it is not alone in the delays it has experienced in obtaining the V3i. See Texas RSA-1 Limited Partnership d/b/a XIT Wireless, WT Docket No. 01-309, Petition for Temporary and Limited Waiver of Section 20.19(d)(2) of the Commission's Rules, at 2 (filed Sept. 14, 2006).

<sup>11</sup> LG received HAC T-coil certification for the C2000 on July 26, 2006. See Equipment Authorization for FCC ID: BEJC2000 (granted July 26, 2006).

supply of C2000 handsets for Dobson to fulfill inventory in each of its retail stores. However, although Dobson has expedited testing for this model, it does not anticipate completing the testing until September 22. Assuming successful testing and the uploading of software settings (to be determined through the testing process) required for the phones to work on the Dobson network, the units will be drop-shipped directly from the distributor to the retail outlets, hopefully by late September. In short, assuming best case results of the testing of the LG model and the delivery by Motorola of its Razor V3i, Dobson should be compliant with the requirements of the rules by mid to late October, 2006. Given the uncertainties associated with performance by companies outside its control, Dobson seeks a waiver to December 18, 2006 to account for such contingencies with a commitment to meeting its regulatory obligations as soon as possible.

Section 1.3 of the Commission's rules establishes that the Commission may grant relief from its rules for good cause shown.<sup>12</sup> Further, pursuant to Section 1.925(b)(3), the Commission may grant a request for waiver if the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant would be in the public interest, or, in view of unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>13</sup> Good cause clearly exists in this instance for the Commission to grant Dobson sufficient time to obtain and offer two handset models that meet the Commission's T-coil standard.

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<sup>12</sup> See 47 C.F.R. § 1.3.

<sup>13</sup> See 47 C.F.R. § 1.925(b)(3); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *see also Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

Dobson has worked diligently with the manufacturers to identify the dual-band GSM handsets that are available to Dobson that meet a T3 or higher standard. Dobson worked to complete testing and place orders for two handset models, and Dobson reasonably expected these models to be timely delivered by the T-coil deadline. However, due to an unexpected component problem with Motorola's inventory and a delay in obtaining test samples from LG – events that were both unexpected and beyond Dobson's control – Dobson will only be able to offer one T-coil compliant handset, at best, by late September. If all goes well with re-testing of the V3i and the promised commercial availability of the V3i and the 6126H, Dobson should be able to *exceed* the Commission's requirements and be able to offer three handset models that meet a T3 rating by November 2006.

Dobson remains committed to providing individuals with hearing disabilities with access to its innovative wireless digital service offerings. In accordance with the Commission's rules, Dobson currently already offers two handset models that satisfy the Commission's RF interference requirements, *i.e.*, that meet the M3 or higher standard, and complies with the Commission's in-store testing requirements as well.<sup>14</sup> The current delays in obtaining T-coil compliant handsets are unexpected, but Dobson is doing all it can to ensure that such handsets are offered to consumers as soon as possible. Accordingly, strict enforcement of the T-coil deadline against Dobson would be inequitable and unduly burdensome, especially given that Dobson has no reasonable alternative to achieve compliance due to the delays of the manufacturers.<sup>15</sup>

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<sup>14</sup> See 47 C.F.R. § 20.19(c)(2)(i). Dobson currently offers the Motorola RAZR V3 and the Nokia 6061. See ATIS, WT Docket No. 01-309, Hearing Aid Compatibility Status Report #5, Attachment with Status Report for Dobson Cellular Systems, Inc. and American Cellular Corporation (filed May 17, 2006).


<sup>15</sup> See *T-Mobile USA, Inc. Petition for Waiver of Section 20.19(c)(3) of the Commission's Rules*, WT Docket No. 01-309, *Memorandum Opinion & Order*, 20 FCC Rcd 15147, 15150 (2005) (granting limited extension of time to allow

## CONCLUSION

For the reasons stated above, grant of the instant waiver request is consistent with the public interest, convenience and necessity.

Respectfully submitted,

**DOBSON COMMUNICATIONS CORPORATION**

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September 18, 2006

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T-Mobile to offer HAC compliant handsets when it was "on-track" to offer phones but could not meet deadline due to manufacturer's unexpected delay in receiving its FCC certification).

## DECLARATION

I, Tom Roberts, hereby state the following:

1. I am the Chief Marketing Officer for Dobson Communications Corporation.
2. I have read the foregoing "Petition for Waiver of Section 20.19(d)(2) of the Commission's Rules" ("Petition").
3. With the exception of those facts of which official notice can be taken, all facts set forth in the Petition are true and correct to the best of my knowledge, information and belief.

I declare that the foregoing is true and correct. Executed on this 18<sup>th</sup> day of September, 2006.

A handwritten signature in cursive script that reads "Tom Roberts". The signature is written in dark ink and is positioned above a horizontal line.

Tom Roberts